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Message Text

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ACTION NEA-10

INFO OCT-01 ISO-00 ABF-01 FBO-02 L-03 OMB-01 AID-05 IGA-02

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---------- 074154
P 201055Z JUL 76
FM AMEMBASSY ISLAMABAD
TO SECSTATE WASHDC PRIORITY 6642

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E.O. 11652: N/A
TAGS: AFIN, PK, SSR,
SUBJECT: USE OF EXCESS RUPEES FOR USG PROJECTS IN SAUDI ARABIA

REF: A) STATE 175984, B) DHAHRAN 0916, C) ISLAMABAD 6853

1. FOR REASONS CITED IN REF C, MISSION CONCERNED ABOUT IMPLICATION IN REFS A AND B THAT PROPOSED CONTRACTING WILL BE APPROPRIATE IF PAYMENT IS MADE TO THE CONTRACTOR IN PAKISTAN. OUR 104F LOAN AGREEMENTS PERMIT THE USE OF REPAYMENTS FOR ANY EXPENDITURES OF OR PAYMENTS BY THE UNITED STATES IN PAKISTAN OR ITS TERRITORIES. BUT WE BELIEVE THIS LANGUAGE IS CLEARLY INTENDED TO COVER ONLY PAYMENTS HERE FOR GOODS AND SERVICES DELIVERED HERE. ANY OTHER INTERPRETATION WOULD MAKE MEANINGLESS THE REQUIREMENT FOR MUTUAL AGREEMENT PRIOR TO CONVERSION OR EXPORT.

2. THE USG CANNOT DO INDIRECTLY OR BY SUBTERFUGE SOMETHING THAT IT CANNOT DO DIRECTLY UNDER ITS AGREEMENTS WITH ANOTHER GOVERNMENT. THIS APPEARS TO BE CLEARLY APPLICABLE HERE, SINCE THE PROPOSED CONTRACT WOULD HAVE THE EFFECT OF AN EXPORT OR CONVERSION. IF THE CONTRACTOR USES THE RUPEES TO PAY LOCAL COSTS HERE IN SUPPORT OF THE SAUDI PROJECT, HE WILL AVOID HAVING TO CONVERT EARNED FOREIGN EXCHANGE FOR THIS PURPOSE. THE RESULT WILL BE A LOSS TO PAKISTAN'S BALANCE OF PAYMENTS IDENTICAL TO DIRECT CONVERSION OR EXPORT, BOTH OF WHICH REQUIREMUTUAL AGREEMENT OF THE GOP. WE ARE SURE GOP WOULD CONSTRUE THIS TRANSACTION IN THE SAME WAY AND WOULD TURN IT DOWN. GIVEN SENSITIVITY OF RUPEE ISSUE HERE WE RECOMMEND AGAINST SEEKING
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SUCH AN AGREEMENT.

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3. WHILE WE BELIEVE THE ABOVE INTERPRETATION TO BE CORRECT FROM A LEGAL POINT OF VIEW, THERE IS ALSO THE QUESTION OF THE PROPRIETY OF THE PROPOSED TRANSACTION. THE 104F AGREEMENTS REQUIRE US TO TAKE INTO ACCOUNT THE IMPACT ON PAKISTAN'S ECONOMY OF ANY USE OF EXCESS RUPEES. WE SUGGEST THAT SUCH AN ACCOUNTING WOULD REASONABLY CONCLUDE THAT THE UNITED STATES SHOULD NOT TAKE AN ACTION WHICH WOULD HAVE THE EFFECT OF HAVING PAKISTAN, A COUNTRY WITH A PER CAPITA GNP OF A $130, TO SPEND ITS SCARCE FOREIGN EXCHANGE TO PAY FOR THE CONSTRUCTION OF AMERICAN GOVERNMENT FACILITIES IN SAUDI ARABIA.
BYROADE

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